



**DRAFT Summary Minutes of the
Delta Protection Commission Meeting
Thursday, March 27, 2014**

The Reserve at Spanos Park
6301 W. Eight Mile Road
Stockton, CA 95219

ADMINISTRATIVE AGENDA

1. Call to Order/Flag Salute.

Chair Ruhstaller called the meeting to order at 5:14 p.m. and initiated the flag salute.

2. Roll Call

Present: Chair Ruhstaller, Commissioners Bugsch, Burgis, Ferguson, Ferrara (for Commissioner Laird), Ledesma (for Commissioner Cabaldon), Miller, Scriven, Thomson, van Loben Sels, Villegas, and White (for Commissioner Kelly). A quorum was established with twelve Commissioners present.

Commissioner Nottoli arrived at 5:47 p.m., after Roll Call.

Absent (with no Alternate present): Vice Chair Piepho and Commissioner Ross.

3. Welcome and Public Comment. Opportunity for the Public to Address the Commission Regarding Items Not on the Agenda

Chair Ruhstaller welcomed the other members of the Commission, staff, and the audience members. He asked for any public comments and there was one member of the public requesting to speak.

Roy Hoggard, Delta resident, expressed his concerns over the drought conditions, the farmers' water being cut, and water conservation efforts for everyone.

CONSENT AGENDA

4. Approval of January 23, 2014 Meeting Minutes

It was moved by Commissioner Thomson and seconded by Commissioner Burgis to accept the January 23, 2014 Minutes; in a voice vote, all present voted Aye.

REGULAR AGENDA

5. Consider Approval of Delta Protection Advisory Committee (DPAC) appointments

Executive Director Erik Vink explained the selection process and presented the recommended appointments to DPAC. They are Gilbert Labrie and Bill Wells (Delta business), David Strecker and Al Medvitz (Delta agriculture), Jack Michael and Jeff Hart (Delta recreation), Melinda Terry (Delta flood entity), Mark Pruner (Delta organization), Barbara Daly (Delta general public), Jim Starr (State agency), Aaron Will and Ryan Luster (Delta conservation/habitat entity), and Byron Buck (Delta water exporter)

Commissioner Ferrara asked about the two vacancies and Mr. Vink responded that staff was still actively trying to fill them with candidates already identified.

Commissioner Villegas asked that the members be vigilant in representing the specific category they were appointed for.

Chair Ruhstaller asked for any Public Comment and there was none.

It was moved by Commissioner Ferrara and seconded by Commissioner Miller to approve the appointments to DPAC; in a voice vote, the motion carried unanimously.

6. Receive update, provide direction to staff, and consider appointing subcommittee on DPC Strategic Plan 2020

Mr. Vink introduced Jim Nelson, DPC retired annuitant and Strategic Plan consultant. Mr. Nelson presented the current mission statement, and provided several proposed revised mission statements. He asked for Commissioners to vote for their preferred option and provide any feedback to staff. Mr. Nelson presented the next steps in the Strategic Plan update process, including developing a vision statement and goals/objectives. Commissioners were asked to indicate their willingness to work with staff on these efforts.

Chair Ruhstaller asked for any Public Comment and there was none.

Mr. Nelson provided an updated schedule for completion of the Strategic Plan as directed from the last meeting. He informed the Commission that public input will be sought once the draft plan has been presented to the Commission. Chair Ruhstaller asked for confirmation that this item would be brought back to the Commission in May.

Chair Ruhstaller recognized his Board of Supervisors colleague and Alternate Commissioner, Bob Elliott. He also recognized Norman Richardson, Mayor of Rio Vista, who will take the place of Commissioner Burgis in May as per the rotation agreement between the cities in Contra Costa and Solano County.

7. Receive report on drought, Delta water flow impacts, and emergency drought barriers.

Mr. Vink introduced Bill Croyle, DWR Drought Manager, and Paul Marshall, Manager of the DWR Bay-Delta Office and primary contact for the drought barriers. Mr. Croyle's presentation included information on hydrologic conditions, state snow and precipitation conditions of past and present, reservoir water levels, drought impacts and advanced planning, including wildfire risk and response challenges. He also discussed the California Water Plan update and efforts of the Drought Task Force, including the Governor's drought proclamation and efforts of local drought task forces and agency coordination, among other items.

Mr. Vink asked Mr. Croyle if the presentation information could be found online, and Mr. Croyle responded that the information can be found at www.water.ca.gov.

Commissioner Ferrara informed the Commission that the Natural Resources Agency also has the information on their Website, that he sends it out to his distribution list weekly, and that he could add individuals to that distribution list as needed.

Commissioner Burgis asked if water storage and shovel-ready actions would help this situation. Mr. Croyle responded that water storage is a popular topic right now and that DWR wants to know what efforts are happening at the local level so DWR can help with funding or by contributing to the technical aspects of the proposed projects.

Commissioner Scriven asked about Sacramento River water flows this season. Paul Marshall responded that the modeling team is still trying to get that information. They are working with water agencies and the Bureau of Reclamation to optimize the system. Commissioner Scriven asked if they will know by April 15th, and Mr. Marshall stated that they should have a better idea by then.

Commissioner Ferguson asked about the status of water banking. Mr. Croyle responded that the Department has not yet been water banking during this drought emergency. Mr. Marshall said his presentation should help answer those questions.

Mr. Marshall discussed proposed drought barriers that might be placed in the Delta to reduce salinity intrusion as river flows decline. He discussed the proposed barrier locations (Steamboat Slough, Sutter Slough and West False River), history of drought barriers in the 1970s, and past and present barrier data, including salinity level information when barriers were last installed.

Commissioner Thomson asked about precipitation amounts in previous droughts to compare with current drought conditions. Mr. Marshall said he believed that information was in Mr. Croyle's slides and they will look it up for him.

Mr. Marshall continued his presentation with information on water model projections showing where we could be with salinity levels as water flows through the Delta decline. He explained why the drought barrier locations were selected, including their effectiveness and local effects on farming and recreation. He described how the barriers work and how they would help keep the salinity at bay.

Commissioner Ferguson asked if the Delta Cross Channel would be open if the barriers were to be installed this year. Mr. Marshall indicated that the Cross Channel would be open between May 20 and June 1.

Commissioner Nottoli asked about the increase in salinity at West False River and whether salinity levels would be increased at the other two barriers as well. Mr. Marshall responded that they would not and that the net effect would be the lowering of water stage up to a foot and a half, perhaps impacting the agricultural users in that area.

Mr. Marshall continued with discussion of reservoir water levels and the likelihood that the major reservoirs would be in a dead pool situation by late August if current flow requirements were maintained. DWR has modelled the effect on salinity levels of installing the drought barriers at different times, and Mr. Marshall reported on the effects at Barker Slough and how they are analyzing their modeling to prevent unacceptable salinity levels at that location. Mr. Marshall also showed the plans for a boat portage facility at Steamboat Slough to allow small watercraft (boats less than 22 feet) to be trailered and trucked around the barrier.

Commissioner Scriven asked if the culverts being installed will allow enough water through for the farmers to use. Mr. Marshall responded that they will, and they are working with the North Delta Water Agency to ensure that.

Commissioner Ferrara asked about the timing and method of barrier installation and removal. Mr. Marshall explained how rock will be brought in on a barge, deposited to a certain height, culvert added, and then more rock will be deposited. The barriers will be removed by November at the latest, with the removal process a reverse of the installation process.

Commissioner Villegas asked about how irrigation concerns are being addressed. Mr. Marshall said that DWR has been meeting with North Delta Water Agency and that they are trying to get out to affected farmers and reclamation districts to address potential problems and resolve them as soon as possible.

Commissioner Burgis asked what the flow change effects would be on levees downstream. Mr. Marshall explained that water velocities would increase through Dutch Slough and Fisherman's Cut, and that DWR is working with the reclamation districts to address it. Commissioner Burgis asked whether these increased velocities would affect flood insurance rates. Mr. Marshall answered that Dutch Slough on the south, which is planned for a wetlands project anyway, and Jersey Island on the north are both owned by DWR. Jersey Island is agricultural land and probably does not have 100-year flood protection. Commissioner Burgis also inquired how Marsh Creek would be affected by increased salinity and the efforts to increase fish populations. Mr. Marshall said the impacts from Steamboat and Sutter Sloughs barriers occur toward the end of the spring runs. If the major reservoirs go to dead pool, as he had already discussed, it would be detrimental to the fish population.

Commissioner White asked why conservation efforts are still voluntary. Mr. Croyle explained that the Sacramento region is getting the conservation message out and pushing the efforts in his opinion. If voluntary calls for water cutbacks are not sufficient, mandatory restrictions will occur.

Chair Ruhstaller asked for any Public Comment.

Tim Neuharth, Sutter Island landowner and farmer, said he would be affected by the barrier on Steamboat Slough. He wanted his comment first to be directed at DWR, that they are two years too late on conservation efforts in the region. He stated he does not believe the barriers as proposed are being installed to address a problem of salinity for Delta residents, but a salinity problem for Delta water exporters. He asked a number of questions, including why the Delta Cross Channel gates would be opened if you want to push the salinity out. He also questioned why there is any Delta export pumping occurring if we are having a salinity issue. He indicated that he has asked about the exact location of the barrier installation but has not been provided an answer. He inquired about DWR's offer of emergency pumps and would like to know how to get on the list and how many emergency pumps will be available.

Osha Meserve, counsel for Local Agencies of the North Delta and representing local reclamation districts and land owners, stated that she and those she represents have been working with DWR to learn the particulars of the barrier installation, but there hasn't been a lot of information provided. She stated that the northern barriers have not been justified or adequately explained, causing concern for water levels and water quality. It isn't clear that additional water won't be exported out of the Delta beyond health and safety limits when water levels are already low. She felt the project needed to have a full environmental review to understand the impacts and issues, but instead DWR plans to exempt this project from environmental review. There is an application pending at the State Water Board for a 401 certification. That will involve a public process and it might be the only public review process that will occur. She urged those interested to sign up for notifications from the State Water Board, and concluded by

stating that they do not have the developed plans for operation and mitigation to be comfortable with these barriers.

Cate Kuhne, President of Reclamation District #29 (Bradford Island) asked Mr. Croyle if she heard correctly that there cannot be mandatory conservation measures without a local or county declaration of a drought emergency. Mr. Croyle replied that no, they do not have to declare a drought emergency. She also asked Mr. Marshall how the barrier at False River can make a difference in the reservoir conditions that Mr. Croyle described. Mr. Marshall responded it will prevent salinity going directly into Frank's Tract. Ms. Kuhne said she would need to see his description, so they could continue the conversation offline.

Dominic Gulli from Green Mountain Engineering commented to Mr. Croyle that if farmers in the Delta could fallow their land and sell their water, it would provide a lot more water for salt water repulsion and that finding a way to fast track that water sale would be a benefit.

Melinda Terry of North Delta Water Agency commented that the current proposed rock barriers are a different scenario from the 1976 situation, as this is at the beginning to middle of the planting season, while in 1976 the barrier was placed at the end of the irrigation season. Also, there was only one barrier installed at Sutter Island. She stated that DWR did not approach the water agency ahead of time, placing them at a disadvantage, and that they are against deadlines to address the issues. She felt the Commission could not ignore that CEQA review was not happening. She was also concerned that the funding was not completely identified at the public meeting and there is no agreement in place prior to the placement of the barriers.

Commissioner Ruhstaller commented that it is obvious that there are people very concerned and frustrated with the issues, and asked if there were any thoughts on having a public meeting on this. Commissioner Scriven responded that unless the state decision makers were present at the meeting, it would be just listening to the same comments and frustrations as tonight.

Commissioner Thomson asked Mr. Marshall about the DWR thinking behind the proposed barrier locations. Mr. Marshall commented that barriers at Sutter and Steamboat Sloughs would freshen up the western portion of the Delta but not as well at the eastern portion; the tidal energy is the driving force for everything in the Delta. Adding the barrier at False River helps push water to that eastern side. Commissioner Thomson says he believes this will push more salt water to the western side. Mr. Marshall agreed and said the barrier will help push the salinity down to south of Ryer Island, but it will be a critical area to watch so the salinity levels won't get away from them. Commissioner Thomson responded that he hopes their modelling is correct because if it isn't, it will hurt a lot of people.

Commissioner Nottoli asked Mr. Marshall if these actions are intended to facilitate the export of fresher water. Mr. Marshall responded that the south Delta exports are down to emergency health and safety levels, but that any water exported would be available for water agencies to use.

Commissioner Nottoli commented that local citizens' faith is shaken when they hear that Delta water conditions are severe and yet export pumping continues even when the reservoirs are fuller down south. Mr. Marshall reminded everyone that Mr. Croyle did share a slide earlier in his presentation that indicated southern California was set to have zero allocation of water.

Mr. Neuharth commented again about how the flows affect salinity and reiterated that the direct approach needs to be addressed with the Cross Channels closed as the way to prevent the salinity from coming into the Delta.

Commissioner Villegas suggested that another body or the Commission have a public meeting to give the public more information and more time for their questions.

Chari Ruhstaller urged Ms. Terry and Mr. Marshall to work with Mr. Vink to help facilitate having another public meeting before barriers are installed, in an effort help the people get their questions answered.

Norman Richardson of Solano County Water Agency voiced his major concern about the salinity levels rising at Barker Slough, which is the source of water for the cities of Vacaville, Vallejo, and Fairfield. This issue needs to be addressed immediately with further consideration before proceeding.

Chair Ruhstaller designated Ms. Terry and Mr. Vink as an ad hoc committee to work with DWR and arrange another public meeting. Ms. Terry thought Mr. Marshall would need to provide a date when the materials were to be delivered for the barrier projects before knowing when to schedule a public meeting. Mr. Marshall said that he did not know the delivery dates.

Commission Ledesma asked that Mr. Vink provide the meeting information to Commissioners so that they could forward the information to their interested parties as well. He also stated West Sacramento is under voluntary conservation, and is doing very well with a reported with a 25% reduction. He hopes Mr. Vink could get updates for the other Delta communities.

Ms. Kuhne stated that Mr. Marshall did know the delivery date of materials. Jersey Island will sign their agreement and they will be starting work thereafter. Mr. Marshall replied that they are doing a seepage berm on their levee, regardless of whether the barrier is installed there and that the work was planned prior to the barriers. He did state that culverts and gates have been ordered as materials for the project.

Chair Ruhstaller called for a ten minute break to the meeting. The Commission then reconvened.

8. Bay Delta Conservation Plan (BDCP)

Mr. Vink provided background to the Commission on the BDCP and introduced panel members who spoke on their comments and concerns regarding the plan.

Osha Meserve (Local Agencies of the North Delta, "LAND") spoke about agricultural impacts, focusing her concerns on: grazing land impacts and lack of mitigating those impacts; overlooked statewide benefits from Delta agriculture; use of conveyance first instead of habitat improvement; the conversion of 80,000 acres of farmland; and restrictions on private lands whether they are participating or not in the plan.

Marguerite Patil (Contra Costa Water District) focused on water quality, water supply and financial impacts of the BDCP. Her concerns were the increased salinity affecting water quality, actual operations not detailed enough to mitigate correctly, and how they allocate the costs to non-BDCP proponents. Water supply to the Los Vaqueros Reservoir would be affected, and that affects their water availability to their customers.

Jane Wagner-Tyack (Restore the Delta) focused her comments on Delta as place, addressing the adverse unavoidable impacts such as the relocation of residents of Byron to reduce their risk to cancer-causing particulates; impacts to recreation, agritourism, and habitat; fragility of Delta levees; and possible island flooding. She cites the Commission's own Economic Sustainability Plan study on flood and earthquake possibilities. She expressed concern that the BDCP depends on levee fragility to elevate the twin tunnels project above all other alternatives. She feels habitat placement warrants more scrutiny as it uses productive agricultural land.

Dante Nomellini (Central Delta Water Agency) said that BDCP is the perfect example of why Delta residents are so skeptical of the government, with the BDCP outcome already predetermined. He stated there is a trade-off of Delta land being converted to habitat in exchange for the fishery agencies backing off of their requirements for more water flowing through the Delta, but the biology isn't there to support it. He did not think it is a very good guarantee to build a pair of forty foot tunnels to transport water for export, especially when the governor is willing to declare an emergency and suspend environmental protections; there is no way to nullify emergency powers.

Mr. Nomellini had a presentation distributed prior to the meeting, which he then referred to. He explained how the State Water Project plan was supposed to develop 5 million acre/feet of supplemental water from the north coast watershed, and how none of that water has been developed. He continued to speak about how the State Water Project never meant to leave the Delta with an isolated facility; the idea was to keep a common pool of water in the interior part of the Delta and serve the western part with an overland supply. Mr. Nomellini continued by commenting how the law also states that you cannot divert water from the Delta unless the Delta is first provided with an adequate supply. He feels the Commission should be a staunch supporter of the Economic Sustainability Plan in its comments. Mr. Nomellini referred to a map in his handout that shows existing habitat and the areas the BDCP proposes to use for additional habitat. He also referred to maps of lands with public parks that need to be sustained. He feels the importance of levees as preservation of the Delta is the most important focus the DPC should look at in their comment letter. Mr. Nomellini urges the Commission to stay strong in its opposition to the BDCP.

Chair Ruhstaller asked for any public comment.

Ms. Terry wanted the Commission to know that she was speaking for herself as a resident, and as a representative from California Central Valley Flood Control Association, although they have no official position yet on the BDCP. She commented that the Commission should include flood and especially water supply in their comments. There was no analysis done on in-Delta impacts of water supply in the water supply chapter. She cited Chapter 5, Effects Analysis that was done for fish. A change to water elevation was one effect shown by the modeling, and was not analyzed for recreation as well. The flood control system itself was not analyzed either. Ms. Terry states the areas not analyzed are points to focus on, as well as the realistic implementation of mitigations, and the unavoidable impacts should be addressed in the Commission's comment letter. She suggests a workshop to share staff's outline, and for the public to have an opportunity to comment on it.

Chair Ruhstaller asked for Commissioner questions or comment.

Commissioner Nottoli asked Mr. Vink what time frame and format would the staff need to have a public workshop. Mr. Vink replied that a draft could be made available at any time and that by late April staff could provide a workshop for public comment.

Chair Ruhstaller suggested staff conduct a public workshop to give the public an opportunity to comment, instead of a special Commission meeting.

Commissioner Ferrara asked if we were to provide a draft for the public to comment on or if it would be just an outline provided for the public to provide feedback. Ms. Terry replied that just an outline would be fine.

Mr. Croyle inquired if he and DWR were included in the workshop and Chair Ruhstaller responded that he would urge them to attend.

Chair Ruhstaller asked if staff would use the alternate Commission meeting date or another date available. Mr. Vink suggested he consult with staff before setting a date.

Commissioner Ledesma asked if the comments or outline would be available prior to the meeting. Mr. Vink commented that a week to ten days prior would be a good amount of time for review before a workshop. Commissioner Bugsch asks for clarification on what will be presented to the public and Mr. Vink mentioned the matrix staff has been populating to help create a draft comment letter.

9. Receive update on Delta invasive aquatic weed control effort

Chair Ruhstaller pulled this item from the agenda and directed that it be addressed at a future meeting.

10. Receive update on National Flood Insurance Program legislation

Chair Ruhstaller pulled this item from the agenda and directed that it be addressed at a future meeting.

11. Receive Executive Director Report

Mr. Vink thanks the panel for presenting. He reported on the interagency agreement with DWR to complete a Delta Flood Risk Levee Assessment District; the work is ramping up and would be a priority in the staff work plan during the second half of the year and into 2015.

The Delta Stewardship Council's Implementation Committee will meet on April 9, the first of proposed semiannual meetings of high-level agency representatives to discuss implementation of the Delta Plan. Vice Chair Piepho will represent the Commission on this committee.

12. Recognition of outgoing Commissioner Burgis

Chair Ruhstaller presented Commissioner Burgis with a Certificate of Appreciation from the Commission for her service, noting the agreement between the cities of Contra Costa and Solano Counties to rotate the seat every two years. Commissioner Burgis accepted the certificate and stated that she hoped her service helped make a difference. Commissioner Nottoli thanked her for her service, wished her well on behalf of the Commission, and commented that her insights and presence most definitely made a difference to the Commission.

13. Commissioner Comments and Questions

Chair Ruhstaller asked for any questions or comments from Commissioners and there were none. He reported that a draft BDCP comment letter would be presented at the next meeting and that a drought update might also be a good topic. If there were additional time available, aquatic weeds or flood insurance issues could be discussed at that meeting. Commissioner Ferrara asks if we could start earlier. Chair Ruhstaller explained that he attends the Delta Stewardship Council meeting all morning and afternoon prior to coming to the Commission's meeting.

14. Adjourn

Chair Ruhstaller adjourned the meeting at 9:10 p.m.